

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DELORES STURGEON**  
Claimant

**APPEAL NO. 21A-UI-13501-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 05/31/20**  
**Claimant: Appellant (6)**

Iowa Code Section 96.3(7) - Overpayment  
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 4, 2021, reference 02, decision that held the claimant was overpaid \$1,930.00 in regular unemployment insurance benefits for five weeks between June 7, 2020 and July 11, 2020, based on a July 15, 2020 decision that denied benefits in connection with a purported able and available determination. A hearing was scheduled for September 2, 2021. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-13502-JTT. The claimant appeared for the hearing. Prior to the presentation of evidence, the claimant/appellant requested the appeal be withdrawn.

**ISSUE:**

Should the appellant's request to withdraw the appeal be granted.

**FINDINGS OF FACT:**

The claimant is the appellant in this matter and in a companion appeal number. The hearing in this matter was initially scheduled for August 5, 2021, but was rescheduled to September 2, 2021. On August 5, 2021, the claimant provided correspondence between the claimant Susan Dameron, Iowa Workforce Development Employer Liability Specialist. Between the two hearing dates, the administrative law judge corresponded with Ms. Dameron to confirm the claimant's understanding that both overpayment matters have at this point been resolved and that there is no outstanding overpayment balance. The claimant's brother had filed the appeal on the claimant's behalf at a time when the claimant was hospitalized. The appeal was filed in part due to the reference to an able and available determination in the overpayment decision. The underlying disqualification concerned a between academic terms disqualification, rather than an able and available determination. After brief discussion at the start of the September 2, 2021 hearing, the claimant requested to withdraw the appeals in both appeal numbers. The request to withdraw the appeal was made before the administrative law judge had entered a decision in connection with the appeal.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-26.8(1) provides:

- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge determines that the claimant's request to withdraw the appeal should be approved.

**DECISION:**

The claimant's request to withdraw the appeal is approved. The June 4, 2021, reference 02, decision that held the claimant was overpaid \$1,930.00 in regular unemployment insurance benefits for five weeks between June 7, 2020 and July 11, 2020 remains in place. The overpayment has been recovered. There is zero outstanding balance.



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James E. Timberland  
Administrative Law Judge

September 07, 2021  
Decision Dated and Mailed

jet/mn